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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 2112/2020**

AJEET YADAV

..... Petitioner

Through: **Mr. Raj Kumar, Adv.**

versus

STATE

..... Respondent

Through: **Ms. Kusum Dhalla, APP for
State**

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

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17.08.2020

(Video-Conferencing)

1. The applicant seeks anticipatory bail.
2. FIR No. 0202 dated 16th May, 2020 was registered against the applicant, at PS Saket, alleging commission of offences, by the applicant, under Sections 307/392/452/354/354-B/506/509/427/147/148/120-B/34/188 of the Indian Penal Code, 1860 (IPC), read with Section 51 (b) of the Disaster Management Act, 2005.
3. It is alleged, in the FIR, that, between 11 a.m. and 12 noon on 16th May, 2020, Kuldeep Sejwal, who was the landlord of the premises at F-213/C, 2nd Floor, Old M.B. Road, Lado Sarai, Delhi, arrived with six or seven bouncers, who broke out the door of the said premises and assaulted, *inter alia*, the complainant Sachin Dev as well as other

persons located therein, including the wife of the proprietor of the establishment, Mrs. Navmallika. It is also alleged that the said group of persons destroyed the office furniture and threatened to kill the complainant.

4. It is further alleged that the said group of persons tore the dress of Mrs. Navmallika and misbehaved with her and attacked the complainant with a sharp instrument.

5. The name of the applicant does not figure in the said FIR; however, consequent to information received subsequently, he has been arrayed as an accused in the said offences.

6. During investigation, Kuldeep Sejwal, the main accused, i.e., the landlord of the premises, was arrested. He applied for bail, *vide* Bail Appln. 997/2020. A Coordinate Bench of this Court, *vide* order dated 8th June, 2020, granted regular bail to Kuldeep Sejwal, *inter alia*, on the ground that the assaults suffered were merely simple in nature, i.e., lacerations in the elbow and injuries on the forehead. This Court noted that charge-sheet is yet to be filed and trial would take time.

7. Ms. Kusum Dhalla, learned APP for the State, does not dispute the fact that, in the present FIR, the main accused was Kuldeep Sejwal, and that, on merits, the case of the applicant cannot be treated as more severe than that of Kuldeep Sejwal. At the same time, she impresses, on the court, the fact that the applicant was in the habit of

providing bouncers to vacate premises, and submits, therefore, this Court should keep this factor in mind, while considering the request of the applicant.

8. In any event, she submits, even if anticipatory bail were to be granted to the applicant, he ought to be directed to cooperate with the investigative process and respond to any summons issued to him in that regard.

9. Consequent on the passing of the aforesaid order, dated 8th June, 2020, by this Court in ***Kuldeep Sejwal v. State (Bail Appln. 997/20)***, three of the co-accused persons, whose cases are indistinguishable from that of the applicant, were granted anticipatory bail, by the learned Additional District & Sessions Judge, Saket, *vide* order dated 7th July, 2020, which reads thus:

“07.07.2020

Present: Sh. Nischal Singh, Ld. Addl. PP for the State.

Sh. Rajesh Kumar Singh, Ld. Counsel for the applicant.

These are the three applications for bail filed under Section 438 of Cr.PC by the three different applicants arising out of the same FIR bearing no. 202/2020 whereby applicants seek protection from this court from being arrested. Ld. Counsel for the applicants submitted that they are innocent and have been falsely implicated in the present case. They have nothing to do with the present case. They were persuaded by their known person for participating in the event organized by them. He submitted they have no role to play at the crime. They have further submitted that injury sustained to the complainant is simple in nature. Hon'ble Mr. Justice Suresh Kait while granting bail to the main accused Kuldeep Sejwal had observed that injuries were lacerations on the

elbow and forehead of the complainant which were simple in nature as per the MLC and injured was discharged from the hospital on the same day.

On the other hand, Ld. Addl. PP for the State accompanied with the investigating officer has opposed the prayer stating that though the applicants have joined the investigation, but they have given the contradictory statement for their presence at the spot. They submitted that they are henchman brought at the spot by one Kuldeep Dadhwal who wanted to get vacated the property from the complainant.

I have heard the arguments at bar.

Considering the fact that the main applicant who had brought the applicant at the spot had been granted bail by the Hon'ble High Court of Delhi and nothing has to be recovered from the applicants, all the three applicants are ordered to be admitted on bail in the event of their arrest subject to furnishing the personal bond of Rs. 50,000/- each along with two surety of a like amount to the satisfaction of IO/ SHO of PS concerned.

A copy of this order be uploaded on the website as well as sent to the counsel for the applicant and IO.

A copy of this order is placed in each of the case file.

(Atul Kumar Garg)
Additional District & Sessions Judge
South District/Saket Courts,
New Delhi/07.07.2020"

10. No doubt, the learned trial court has, in the case of the present applicant, rejected his prayer for anticipatory bail, *vide* order dated 23rd July, 2020; however, the ground on which the prayer has been rejected does not commend itself readily to acceptance, as the observation, of the learned trial court, that the role of the present applicant is "totally different" from that of the other accused, is

contrary to the case set up in the FIR.

11. In my view, the main accused, Kuldeep Sejwal, having been granted bail, and other three of the co-accused having been granted anticipatory bail, by the learned trial court – which order continues to hold the field – it would not be justifiable to discriminate against the present applicant so far grant of anticipatory bail is concerned.

12. Besides, were the applicant to be taken in custody, in view of the above facts, he would, in any case, be entitled to regular bail.

13. Keeping in view the aforesaid facts and without commenting on the correctness of the case of the prosecution or the defence of the applicant thereto, the applicant is directed to be admitted on bail in the event of his arrest, subject to furnishing of personal bond of ₹ 50,000/- along with two sureties of the like amount, to the satisfaction of the SHO, PS Saket.

14. The applicant is also directed to cooperate with the investigations and to respond to the summons, as and when called.

15. In the event of any want of cooperation, by the applicant, during the investigation process, or any misuse by the applicant of the facility of anticipatory bail granted to him, this facility would be liable to be withdrawn, and the State would be at liberty to move this Court in that regard.

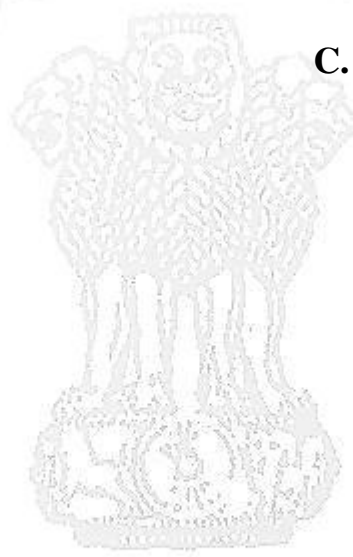
16. The applicant is also directed not to leave the territory of Delhi without obtaining prior permission by this Court, and to furnish, to the SHO, PS Saket, during the course of the day, the Mobile numbers of two responsible persons, who can be contacted at any time, by the police authorities, should the need arise. These mobile numbers would be kept active, during the course of the investigation.

17. Subject to the above directions, the application is allowed.

C. HARI SHANKAR, J.

AUGUST 17, 2020

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